

**UNITED STATES DISTRICT COURT**  
**DISTRICT OF NEVADA**

MATTHEW HOUSTON,

Case No. 2:19-cv-01371-JAD-DJA

Plaintiff

v.

JERRY HOWELL, et. al.,

**Order Dismissing  
and Closing Case**

Defendants

ECF No. 13

This action is a *pro se* civil rights action filed under 42 U.S.C. § 1983 by Matthew Houston, a former prisoner. On May 20, 2020, I dismissed Houston's complaint and gave him leave to amend the complaint by June 22, 2020.<sup>1</sup> I told him that if he did not file an amended complaint by that deadline that this action would be dismissed.<sup>2</sup> The time period for filing an amended complaint now has expired, and Houston has not filed an amended complaint, sought an extension of time to do so, or otherwise responded to my order.

District courts have the inherent power to control their dockets and "[i]n the exercise of that power, they may impose sanctions including, where appropriate . . . dismissal" of a case.<sup>3</sup> A court may dismiss an action based on a party's failure to prosecute an action, failure to obey a court order, or failure to comply with local rules.<sup>4</sup> In determining whether to dismiss an action

<sup>1</sup> ECF No. 24.

<sup>2</sup> *Id.* at 15.

<sup>3</sup> *Thompson v. Hous. Auth. of City of Los Angeles*, 782 F.2d 829, 831 (9th Cir. 1986).

<sup>4</sup> *See Ghazali v. Moran*, 46 F.3d 52, 53–54 (9th Cir. 1995) (dismissal for noncompliance with local rule); *Ferdik v. Bonzelet*, 963 F.2d 1258, 1260–61 (9th Cir. 1992) (dismissal for failure to comply with an order requiring amendment of complaint); *Carey v. King*, 856 F.2d 1439, 1440–41 (9th Cir. 1988) (dismissal for failure to comply with local rule requiring *pro se* plaintiffs to keep court apprised of address); *Malone v. U.S. Postal Service*, 833 F.2d 128, 130 (9th Cir.

1 on one of these grounds, the court must consider: (1) the public’s interest in expeditious  
2 resolution of litigation; (2) the court’s need to manage its docket; (3) the risk of prejudice to the  
3 defendants; (4) the public policy favoring disposition of cases on their merits; and (5) the  
4 availability of less drastic alternatives.<sup>5</sup>

5 The first two factors, the public’s interest in expeditiously resolving this litigation and the  
6 court’s interest in managing its docket, weigh in favor of dismissal of the plaintiff’s claims. The  
7 third factor, risk of prejudice to defendants, also weighs in favor of dismissal because a  
8 presumption of injury arises from the occurrence of unreasonable delay in filing a pleading  
9 ordered by the court or prosecuting an action.<sup>6</sup> A court’s warning to a party that its failure to  
10 obey the court’s order will result in dismissal satisfies the fifth factor’s “consideration of  
11 alternatives” requirement,<sup>7</sup> and that warning was given here.<sup>8</sup> The fourth factor—the public  
12 policy favoring disposition of cases on their merits—is greatly outweighed by the factors  
13 favoring dismissal.

14 IT IS THEREFORE ORDERED that Houston’s application for non-prisoners to proceed  
15 in district court without prepaying fees or costs [ECF No. 13] is **GRANTED**.

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20 1987) (dismissal for failure to comply with court order); *Henderson v. Duncan*, 779 F.2d 1421,  
1424 (9th Cir. 1986) (dismissal for lack of prosecution and failure to comply with local rules).

21 <sup>5</sup> *Thompson*, 782 F.2d at 831; *Henderson*, 779 F.2d at 1423–24; *Malone*, 833 F.2d at 130;  
*Ferdik*, 963 F.2d at 1260–61; *Ghazali*, 46 F.3d at 53.

22 <sup>6</sup> See *Anderson v. Air West*, 542 F.2d 522, 524 (9th Cir. 1976).

23 <sup>7</sup> *Ferdik*, 963 F.2d at 1262; *Malone*, 833 F.2d at 132–33; *Henderson*, 779 F.2d at 1424.

<sup>8</sup> ECF No. 24 at 15.

1 IT IS FURTHER ORDERED that **THIS ACTION IS DISMISSED**. The Clerk of Court  
2 is directed to **ENTER JUDGMENT** accordingly and **CLOSE THIS CASE**. No other  
3 documents may be filed in this now-closed case.

4 Dated: June 26, 2020

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7 U.S. District Judge Jennifer A. Dorsey  
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